

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Lands – Khammam District - Revision Petitions - Revision Petition filed by Sri K. Veeraiah and (4) others against the orders of Joint Collector, Khammam District in Proceedings Rc. No. B3/402/96, dt.10-6-1996 for eviction of the petitioners from Government land to an extent of Acres 16.05 in Sy. No.121/278 of Nutanakal Village, Tallada Mandal, Khammam District – Disposed Off.

REVENUE (ASSN. POT) DEPARTMENT

G. O. Ms. No. 73

Dated 23-1-2008.
Read the following:

1. Joint Collector, Khammam Proceedings No. B3/402/06 Dated 10-6-1996.
2. Hon'ble High Court of A.P. Orders Dt. 28-11-2006 in W.P. No. 12499/1996 filed by Sri K. Veeraiah of khammam District and another one.
3. Revision Petition Dt. 8-1-2007, filed by Sri K. Veeraiah and (4) others before the Govt. under Section 12-A of A.P. Land Encroachment Act, 1905.
4. Govt. Memo. No. 1457/Asn. VII/2007-1 Dated 3-2-2007.
5. From the Collector, Khammam District Lr. Rc. No. E2/277/2007 Dt. 30-3-07.
6. Written Arguments Dt. 20-9-2008 filed by Sri K. Veeraiah and others through their Counsel.
7. Prl. Secretary to Govt. Rev. Dept. Proceedings No. 1457/Assn. POT/2007 dated. 03 -12-2008.

ORDER:

Whereas during the year 1976, certain Villagers (S.Cs) of Nutankal Village of Khammam District have represented that some landlords Sri Ketineni Babu and others have occupied Govt., land and enjoying the same though they are ineligible and requested to evict them and to assign the same to them. The matter was got enquired by the then Tahsildar, Madhira and after detailed enquiry, he has issued noticed Dt. 12-7-1979 under section 6 of A.P. Land Encroachment Act for ejectment of the following individuals from the Govt., land under their possession mentioned against each, as they got other landed property in Nutankal, Anjanapuram, Rejerla and other Villages: -

Sl. No.	Name of the encroacher	Sy. No.	Extent encroached (Acres)	Other landed property held in addition to encroached land. (Acres)
1)	K. Ramaiah	121/278	3.09	29.30
2)	K. Veeraiah	121/278	3.09	29.30
3)	K. Veeramarayana	121/278	3.09	29.30
4)	K.V. Krishna Rao	121/278	3.09	29.30
5)	k. Venkateswarlu	121/278	3.09	29.30

2. And whereas, the petitioners have filed a Writ Petition No. 5627 of 1986 before the Hon'ble High Court against the proposed assignment of Govt., land Acres 16.05 in Sy. No.121/278 of Nutankal Village, in favour of others. The Hon'ble High Court disposed off the Writ Petition on 3-1-1989 with a direction to file Appeal before the Appellate Authority. The R.D.O Khammam, who is the Appellate Authority in his Proceedings Dis. No. B1/3666/95 dt. 11-1-1996 ordered to fix market value for the land under reference and to collect from the appellants and issue pattas to the applicants, as per G.O Ms. No.1724, dt.26-8-1959.

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3. And whereas, the Joint Collector, Khammam reviewed the orders of the R.D.O Khammam and noticed that the individuals are not entitled to get assignment even on payment of market value, since they are not landless poor persons and the land is not an isolated piece of Acres 2.00 only as mentioned in G.O. Ms. No. 1724. In exercise of powers conferred u/s 10(1) of A.P. Land Encroachment Act, 1905, the Joint Collector, Khammam in the reference 1st read above has set aside the orders of R.D.O Khammam and ordered to evict the petitioners from the Govt. land and report compliance.

4. And whereas, against the said orders, the petitioners have filed Writ Petition No.12499/1996 before the Hon'ble High Court, which was disposed of on 28-11-06, directing the appellants to file an appeal before Govt., and status-quo be maintained till 31-12-2006 and subsequently extended till 31-1-2007 vide orders of Hon'ble High Court of A.P. Dt. 29-12-2006 in WPMP No. 34637/2006 in W.P. No. 12499/96.

5. And whereas, Sri K. Veeraiah and others in the reference 3rd read above have filed Revision Petition before the Govt., under Section 12-A of the A.P. Land Encroachment Act, 1905, mentioning the following grounds:

- a) That the Jt. Collector, Khammam has no jurisdiction to pass the orders.
- b) That the petitioners claimed the land as their own lands and alternatively pleaded that they have perfected their title by adverse possession.
- c) That the Proceedings under A.P. Land Encroachment Act, 1905 cannot be initiated where there is a bonafide dispute of title.
- d) In several cases, the Hon'ble Supreme Court and High Court held that the Revenue Authorities should not evict persons in long possession.

6. And whereas the State Govt., may grant stay of any Order or Proceedings as per Section 12-A (2) of the A.P. Land Encroachment Act, 1905, pending exercise of powers under sub-section (1) in respect there-of, the orders of Joint Collector, Khammam, dated 10-6-96 have been stayed in Govt. Memo. 4th read above.

7. And whereas in the reference 5th read above, the Collector, Khammam District has furnished the following points along with original record of the case and requested to dismiss the Revision Petition, in the interest of Justice :-

- i) that Joint Collector, has power to deal with the matter under Andhra Pradesh Land Encroachment Act, 1905, as per the orders issued in G.O.Ms.No.77, Revenue Dated:22-1-68 wherein certain powers of the Dist. Collector were delegated to the Joint Collector including Andhra Pradesh Land Encroachment Act. 1905.
- ii) that the petitioners are ineligible encroachers over the Govt. land and cannot get any right or title over the Govt. land by virtue of their position as they are big landlords.
- iii) that the order of the Joint. Collector in D. Dis. No. B1/1366 95, dt: 11-1-96 are not supported by any law and not in accordance with the provisions of G.O. Ms. No.1724, dt:26-8-1959.

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- iv) that the contention of the petitioners that they have established adverse possession of the subject land is not correct since the issue is under court litigations from the year 1976.
- v) that there is no bonafide dispute of title over the land in possession as the petitioners are in eligible under the rule in force and cannot get any right due to long standing occupation / investment of huge amounts.
- vi) that the petitioners are big landlords from the time of their forefathers and hence they are not eligible to hold Govt. land even on payment of market value.
- vii) that Govt. land is to be utilized for the welfare of the poor people and the petitioners being landlords cannot be utilized their illegal possession over the Govt. land.

8. And whereas the Revision Petition was finally heard on 20th September 2008. In the reference 6th read above, the Counsel for the Revision Petitioners has submitted written arguments, with the following points and prayed that the revision petition may be allowed in the interest of Justice: -

- i) that the subject lands are in adverse possession of forefathers of Late K. Chalamaiah, the father of the Revision Petitioners.
- ii) that the said land was a fallow and K. Chalamaiah and other family members spent considerable amount, dug bore wells and brought it fit to grow Mango garden etc.
- iii) that the MRO Madhira passed eviction orders on 12-7-1979 u/s 6 of Andhra Pradesh Land Encroachment Act, 1905 without serving any notice and conducting enquiry, which is mandatory under the said Act.
- iv) that on their Appeal, the R.D.O Khammam has conducted enquiry and field inspection and passed orders Dt. 10-6-1996 for collection of market value.
- v) that the Joint Collector, Khammam suo moto taken up for revision and reversed the orders of the RDO Khammam.
- vi) That under the provisions of Andhra Pradesh Land Encroachment Act, 1905, the Joint Collector has no role to play and he cannot act suo moto either under revisionary or appellate powers. The Joint Collector has invoked provision of section 10 (1) of the Act.
- vii) That Appeal u/s 10 (1) of the Act has already been invoked by the Petitioners herein by filing Appeal before the RDO and there is no Second Appeal under the Act and nobody filed appeal before Joint Collector.
- viii) That "Collector" has been defined in Section 2 of the Act as "Collector" means any officer in-charge of a revenue division and includes a Deputy Collector, a Sub-Collector and an Assistant Collector". Hence, Act does not include "Joint Collector or District Collector", it only refers to RDO/ Sub-Collector.

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- ix) Hence, the order of the Joint Collector is unsustainable and without jurisdiction and is liable to be set aside.
- x) That the petitioners are continued to be in possession and perfected their title by adverse possession.
- xi) That the petitioners are willing to pay the reasonable market price prevailing at that time as per law.

9. The Government, after careful consideration have observed that the Revision petitioners are landed ryots and are not eligible for assignment of Government land under Andhra Pradesh Assignment of Agriculture Lands Policy and that the action taken by the Joint Collector, Khammam is in accordance with the Rules and Orders on the subject. Therefore, Government hereby decide not to interfere into the orders passed by the Joint Collector, Khammam District. The Revision Petition filed by the Petitioners is accordingly dismissed.

10. The District Collector, Khammam District shall take necessary action accordingly.

11. This order issues in supercession of the Proceedings No. 1457/Assn. POT/2007 Revenue Department dated. 03 -12-2008.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M. SAMUEL
PRINCIPAL SECRETARY TO GOVERNMENT

To

1. Sri Kethineni Veeraiah, S/o late K. Chalamaiah, Aged about 56 years,
 2. Sri Kethineni Ramaiah, S/o late K. Chalamaiah, Aged about 55 years, (Died)
 3. Sri Kethineni Veerananarayana, S/o late K. Chalamaiah, Aged about 54 years,
 4. Sri Kethineni Veera Krishna Rao, S/o late K. Chalamaiah, Aged about 48 years,
 5. Sri Kethineni Venkateswar Rao, S/o late K. Chalamaiah, Aged about 45 years,
 6. Smt. Kethineni Jaganmohini, W/o late K. Ramaiah Aged about 49 years,
 7. Sri Kethineni Harish Chandra, S/o late K. Ramaiah. Aged about 28 years,
 8. Sri Kethineni Satish Chandra, S/o late K. Ramaiah. Aged about 26 years,
- (Sl. Nos. 6 to 8 are legal heirs of Sl. No.2)

(All are residents of Anjanapuram Village, Tallada Mandal, Khammam District).
(through the Joint Collector, Khammam District.)

The Joint Collector, Khammam District.

The Tahsildar, Tallada, Khammam District.

Copy to the P.S. to Minister (Revenue)

Copy to the P.S. to Prl. Secretary (Revenue)

Copy to Sri D. Radha Krishna, Advocate, H.No.8-2-684/A-B/10,

Bhavani Enclave, Road No.12, Banjara Hills, Hyderabad-500 034.

SF / SC

// Forwarded by order //

SECTION OFFICER

